
Appeal Decision

Site visit made on 15 February 2017

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 March 2017

Appeal Ref: APP/P1045/C/16/3158982

Land at 2, 4 and 6 North Parade, Matlock Bath, Derbyshire DE4 3NS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Nicholas Box against an enforcement notice issued by Derbyshire Dales District Council.
- The notice was issued on 27 July 2016.
- The breach of planning control as alleged in the notice is without planning permission the removal of nine painted timber, single-glazed, sliding sash windows and one painted timber and part-glazed door and the installation of new double-glazed, casement style, white UPVC windows to the south, east and north elevations of the property and a UPVC door in the north elevation.
- The requirements of the notice are:
 - 5.1 South Elevation (facing the A6):

Remove the three double-glazed UPVC windows to the second floor. Fabricate and install three new timber, traditionally constructed vertically sliding sash windows (with concealed timber sash boxes, metal weights and associated sash cords/pulleys/catches etc.) appropriately sized for each of the structural openings. Each new sash window shall be 2 over 2 with the glazing divided by a vertical glazing bar (19mm wide). The base of the upper sash, in each case, shall have a moulded timber horn. The glass shall be clear, single-glazing and shall be traditionally puttied into the timber frames. The new window frames shall be given a painted finish on installation.
 - 5.2 East Elevation (facing Holme Road):

Remove the two double-glazed UPVC windows to the first and second floors. Fabricate and install two new timber, traditionally constructed, vertically sliding sash windows (with concealed timber sash boxes, metal weights and associated sash cords/pulleys/catches etc.) appropriately sized for each of the structural openings. Each new sash window shall be 2 over 2 with the glazing divided by a vertical glazing bar (19mm wide). The base of the upper sash, in each case, shall have a moulded timber horn. The glass shall be clear, single-glazing and shall be traditionally puttied into the timber frames. The new window frames shall be given a painted finish on installation.
 - 5.3 North Elevation (facing into rear yard):

Remove the two double-glazed UPVC windows to the rear ground floor and the two double-glazed UPVC windows to the rear upper floor. Fabricate and install four new timber, traditionally constructed, vertically sliding sash windows (with concealed timber sash boxes, metal weights and associated sash cords/pulleys/catches etc.) appropriately sized for each of the structural openings. Each new sash window shall be 6 over 6 with the glazing divided by vertical and horizontal glazing bars (19mm wide). The base of the upper sash, in each case, shall have a moulded timber horn. The glass shall be clear, single-glazing and shall be traditionally puttied into the timber frames. The new window frames shall be given a painted finish on installation.

Remove the double-glazed UPVC door to the rear upper floor (top of rear access staircase). Fabricate and install a new timber door and timber doorframe, appropriately sized for the structural opening. The new timber door shall have a solid timber panel to the lower two-thirds of the door and a single-glazed section to the upper (one third) part of the door. The glass shall be clear (or obscure), single-glazing and shall be traditionally puttied into the timber frame. The new door shall be furnished with handle, lock and letter plate. The new door and doorframe shall be given a painted finish on installation.

- The period for compliance with the requirements is (for all works identified above): 6 (six) months from when this Notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 Act.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Ground (a) and the deemed application for planning permission

2. The main issue is the effect of the windows on the character and appearance of the building and wider area, with reference to its location in the Matlock Bath Conservation Area (CA) and the Buffer Zone of the Derwent Valley Mills World Heritage Site (WHS).
3. The appeal building is Victorian, stone built with a slate roof, comprising a shop unit to the ground floor and flats above. It has three storeys to the front, two to the rear and is located prominently on North Parade at the end of a row of similar commercial properties, at the junction with Holme Road.
4. The first floor front elevation has two distinctive canted bay windows with decorative timber fretwork, although the original sash windows have been replaced with painted timber window frames. The front is altered but retains original joinery work. The building contributes positively to the character of the CA, a heritage asset designated in 1972, as part of the Matlock Bath spa town development, established as a popular inland resort since the 19th century.
5. An Article 4 Direction has removed certain permitted development rights in the centre of the town, including the buildings of North Parade and South Parade. As applied to the appeal site, it removes development rights for exterior painting on the front and rear elevations, and side elevation to Holme Road. Furthermore the "Case for the Direction", which is a material consideration, suggests there is a serious threat to the character of the area by substituting original sash windows with inappropriate designs and materials.
6. Photographs show that prior to their removal, the three second floor openings contained original 2 over 2 vertically sliding, painted timber sash windows. There were four 6 over 6 windows to the rear, and at the side elevation, two 2 over 2 windows, all of which were original vertically sliding painted timber sash windows. An external staircase leads to the second floor flat via a rear upper floor doorway, previously containing a painted timber door with glazed section.
7. The windows on all three elevations and the door have been replaced by double-glazed UPVC windows and a door, materially altering the appearance of the property. The appellant was unaware that the property is in the CA, but the Council suggests that he should have been so aware from publicity before and after its designation. To clarify, I accept that the development was not

- intentional unauthorised development so this factor does not count against the appellant, but that he was unaware of the CA does not assist him either.
8. Due to the prominent position of this end of terrace property and the gradient of Holme Road, the original windows on each of these three elevations would have been readily visible from several viewpoints. The unauthorised windows have a clean and modern appearance; however UPVC is not a traditional material and appears heavier, smoother and glossier in finish. The loss of fine detailing on the sash windows and their contribution to the architectural integrity of the host property and wider townscape is regrettable.
 9. The Derbyshire Dales Local Plan 2005 (LP) Policy NBE21 requires development in the CA to preserve or enhance the character and appearance of the area, a matter which I am also statutorily required to give particular importance in my determination of the appeal.
 10. Although I recognise that the two bay window sashes were replaced several years ago by painted timber window frames, the several other original openings are an important part of the building's character. Their replacement with UPVC units has individually and in combination, harmed the appearance of the building, street scene and the historic townscape character of the CA.
 11. The harm identified is less than substantial in terms of Paragraph 134 of the National Planning Policy Framework (Framework), nevertheless Paragraph 132 advises that great weight should be given to conservation of a designated heritage asset. Moreover there is no discernible public benefit derived from the development that would weigh in favour of the deemed application.
 12. LP Policy NBE25 requires that planning permission for development within the Buffer Zone of the WHS will only be granted where it does not have an adverse impact on the setting of the WHS. The WHS is appreciated as a whole, including mills and associated buildings, watercourses, the landscape and so on. However the appeal building is part of the cultural landscape setting within the Buffer Zone. It contributes through its historic detailing to the overall outstanding universal value of the WHS including its authenticity and integrity.
 13. I recognise that the original windows were rotten or otherwise damaged, and I sympathise with the circumstances in which the appellant found himself after letting the property. However no evidence suggests that the windows could not have been repaired and refurbished if that were deemed necessary.
 14. Reference is made to changes to doors and windows on other properties in the CA resulting in different designs. I noticed that there were some examples although the prevailing type of windows in the immediate vicinity is that of traditionally sash hung timber framed windows. The Council says that any such examples were completed over four years ago and so are immune from enforcement, or they are residential properties not subject to the same restrictions as the appeal building, being a commercial property.
 15. The Council does not provide any data concerning enforcement action as regards other properties. I have no evidence to contradict the Council's response regarding the examples cited, but they are not a compelling reason to permit UPVC windows in this prominently sited building. The original openings, doorways and other architectural features along this historical parade of

commercial buildings continue to contribute much to the local character of the resort.

16. I understand the appellant's desire to provide improved thermal efficiency for the comfort of tenants. However I see no reason why such benefits could not be provided by less obtrusive means in a well-designed secondary glazing system that would not impinge on the requirements of the notice.
17. I conclude that the removal of the existing painted timber windows and door and their replacement with double-glazed UPVC windows and door, have materially altered the host building to the detriment of its historic character and appearance, and the wider townscape qualities of this part of the CA. As such the development causes harm by failing to preserve the character or appearance of the CA and the setting of the WHS. The harm is significant and contrary to the aims of LP Policies NBE21 and NBE25. It is also contrary to LP Policies SF1, SF5 and S6 which among other things require development, including retail and commercial premises, to respect local building styles and materials, well related to surrounding properties and land uses.
18. For these reasons the appeal on ground (a) does not succeed.

Overall Conclusion

19. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the notice and refuse to grant planning permission on the deemed application.

Formal Decision

20. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Grahame Kean

INSPECTOR